

At the outset Applicants note that the claim of Groups VIII-XIV directly depends from the claims of Groups I-VII. Accordingly, it is improper to separate these groups.

The Office has characterized the inventions of Groups I-VII and VIII-XIV as unrelated. Citing MPEP §806.04 and MPEP §808.01, the Office concludes that “each has a different function and a different chemical composition”. However, the Office has not provided sufficient reasons and/or examples to support this assertion. The Office has merely stated the conclusion. Accordingly, the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Accordingly, Applicants respectfully submit that the Restriction Requirement should be withdrawn.

Applicants also respectfully traverse the Restriction Requirement on the grounds that the Office has not shown that a search or examination of all the members of the Markush groups (a) Groups I-VII and (b) Groups VIII-XIV would impose a serious burden.

Furthermore, the MPEP states:

“If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire Claim can be made without serious burden, the Examiner must examine all Claims on the merits even though they are directed to independent and distinct inventions”. (MPEP §803.02)

The Restriction Requirement is traversed on the basis that the Examiner has not shown a burden would exist in searching all the Claims. The Applicants note that MPEP §803.02 stipulates that the members of the Markush group must be sufficiently few in number. Therefore, Office can not reasonable maintain that a serious burden would be imposed by searching only seven members of a Markush group.

In addition, MPEP §803.02 requires the Examiner to examine all the Claims on the merits when members of the Markush group are closely related. The Office provides no support for its conclusion that the sequences in the claims are so dissimilar that they fail to

meet the requirements of MPEP §803.02 for Markush practice. Accordingly, the Restriction Requirement should be withdrawn.

Applicants traverse the Restriction Requirement on the additional grounds that the Office has not shown that a burden exists in searching all the Claims of the present application.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office, particularly in view of the fact that Groups I-VII and Group VIII-XIV are classified in the same subclasses (class 514, subclass 16 and class 530, subclass 388.21, respectively).

Moreover, Applicants submit that no reasonable burden would be presented upon the Examiner for the following reason:

(i) The peptide of SEQ ID NOs: 1-7 each contain the HLA-A1101 motif. The present inventors had synthesized a large number of peptides having this peptide and estimated the activities of these peptides, which led to the finding that each of the peptides having the sequence of SEQ ID NOs: 1-7 had high activity for inducing CTL (see page 6, line 27 to page 7, line 15); and

(ii) The length of each peptide is as short as 9-11 residues, and the examination of all the DNA molecules encoding these peptides may not reasonably be maintained as presenting a burden upon the Examiner. Additionally, it should be noted that CTL-inducing peptides are likely used in a mixture of such peptides for clinical use rather than as a single peptide, because CTL-inducing peptide has diversity in its activity. Thus, a single search may be

sufficient to examine the entire scope of Claim 2.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement.

Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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